

Chapter 32

Sexual Offender Residency Ordinance

- 32.01 Findings and Intent
 - 32.02 Authority
 - 32.03 Definitions
 - 32.04 Original Domicile Restriction
 - 32.05 Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators
 - 32.06 Appeal
 - 32.07 Penalties
 - 32.08 Severability
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- 32.01 Findings and Intent. Chapter 980 of the Wisconsin Statutes provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender due to their likelihood to reoffend, and specifically, Wis. Stat. § 980.08 provides for the supervised release of such persons into the community.

The Kewaunee County places a high priority on maintaining public safety through highly skilled and trained law enforcement as well as dependency on laws that deter and punish criminal behavior.

Kewaunee County finds and declares that sexually violent persons are a serious threat to public safety. When sexually violent persons reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault. Given the high rate of recidivism for sexually violent persons and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and daycare centers. Kewaunee County finds and declares that, in addition to schools and daycare centers, children congregate or play in a number of public places, including public parks and houses of worship.

This section is a regulatory measure aimed at protecting the health and safety of children in Kewaunee County from the risk that sexually violent persons may reoffend in locations close to their residences. It is the intent of this Ordinance to serve the Kewaunee County's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of Kewaunee County by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexually violent persons are prohibited

from establishing temporary or permanent residence; and by creating child safety zones where children regularly congregate in concentrated numbers wherein access by certain sexually violent persons to such zones shall be restricted or excluded.

32.02 Authority. This Ordinance is enacted under the authority of Wis. Stat. §§59.54(6) and (22).

32.03 Definitions. As used in this section, and unless the context requires otherwise:

- (1) “Facility for children” means a public or private primary or secondary school; a church, synagogue, or house of worship; a group home, as defined in Wis. Stat. § 48.02(7); a residential care center for children or youth, as defined in Wis. Stat. § 48.02(15d); a daycare center licensed under Wis. Stat. § 48.65; a daycare program established under Wis. Stat. § 120.13(14); or a daycare provider certified under Wis. Stat. § 48.651.
- (2) “Loiter” or “Prowl” shall mean:
 - (a) Remaining in any one place with no apparent purpose in a manner unusual for law-abiding citizens; and
 - (b) The person's behavior is alarming in nature.
 - (c) Alarming in nature is presumed if the defendant flees, conceals himself/herself or any object, or refuses to identify himself/herself when a law enforcement officer appears.
- (3) “Permanent residence” means the place where a person sleeps, abides, lodges, or resides for 14 or more consecutive days or which qualifies as a residence under the laws of the State of Wisconsin, and may be mobile or transitory.
- (4) “Sex Offense” shall mean a violation, or the solicitation, conspiracy, or attempt to commit a violation of Wis. Stat. §§940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4), 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of §940.302 (2) if §940.302 (2) (a) 1. b. applies, or of §§940.30 or 940.31 if the victim was a minor and the person who committed the violation was not the victim's parent.
- (5) “Sexual Offender” shall mean a person who was convicted, adjudicated or found not guilty or not responsible by reason of mental disease or defect of a sex offense or of the law of another state that is comparable to a

Wisconsin sex offense and is required to comply with the reporting requirements of Wis. Stat. §301.45.

- (6) “Sexually violent person” shall mean a person who was subject to a petition under Wis. Stat. §980.02 and was determined by a court or jury to be a sexually violent person as that term is defined under Wis. Stat. §980.01(7) and was committed to the custody of the State of Wisconsin Department of Health Services for control, care and treatment.
- (7) “Temporary residence” means residence or premises meeting any of the following criteria:
 - (a) A place where the person sleeps, abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not that person’s permanent residence as defined in this section;
 - (b) A place where the person routinely sleeps, abides, lodges or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not that person’s permanent residence as defined in this section; or
 - (c) A place where a person sleeps, or which qualifies as a temporary residence under the holdings of the Wisconsin Supreme Court, and which may include more than one location, and may be mobile or transitory.

32.04 Original Domicile Restriction.

- (1) *Residency Prohibited.* No sexually violent person shall be permitted to reside in Kewaunee County, and no supervised release of such sexually violent person shall be established in Kewaunee County, unless the sexually violent person was domiciled in Kewaunee County at the time of the Wis. Stat. Ch. 980 commitment or the person previously resided in Kewaunee County for over five years.
- (2) *Exemptions.* A sexually violent person does not commit a violation of this section if any of the following apply:
 - (a) The sexually violent person is required to serve a sentence or is otherwise involuntarily required to reside in a jail or other correctional institution or mental facility.
 - (b) The sexually violent person has established a residence prior to the effective date of the ordinance codified in this section.
 - (c) The sexually violent person is a minor or ward under guardianship.
 - (d) The residence is also the primary residence of the person’s parents, grandparents, siblings, spouse, or child; provided, that such parent,

grandparent, sibling, spouse, or child established the residence at least five years before the designated sexually violent person established residence at that location.

32.05 Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators. It is unlawful for a property owner to let or rent any place, structure, or part thereof, trailer, or other conveyance, if the property owner knows or should have known that it will be used as a permanent or temporary residence by any sexually violent person prohibited from establishing such residence by this Ordinance.

32.06 Loitering.

- (1) *Unlawful to Loiter or Prowl.* It is unlawful for a sexually violent person or a sexual offender to loiter or prowl within 500 feet of real property that supports or upon which there exists a facility for children, a public park, a public swimming pool, a public library, or a public recreational trail.
- (2) *Measurement of Distance.* The distance of 500 feet shall be measured from the closest boundary line of the real property that supports or upon which there exists any of the uses enumerated in subsection (1) of this section to the closest boundary line of the real property where the sexually violent person or sexual offender is loitering or prowling.

32.07 Appeal. The residency restrictions of this section may be waived upon approval of the Kewaunee County Board of Supervisors through an appeal by the affected sexually violent person. Such appeal shall be made in writing to Kewaunee County Clerk, who shall forward the request to the Law Enforcement/Emergency Management Committee and the Sheriff. The Sheriff shall forward a report on the appeal request to the Law Enforcement/Emergency Management Committee. The Law Enforcement/Emergency Management Committee will convene within 30 days of the appeal being filed with the Clerk to hear from the Sheriff and the affected sexually violent person or their counsel. After deliberation, the Law Enforcement/Emergency Management Committee shall forward a recommendation to the Kewaunee County Board of Supervisors, who shall act on the recommendation at their next regularly scheduled meeting. A written copy of the decision shall be provided to the affected sexually violent person by Kewaunee County Clerk. The Law Enforcement/Emergency Management Committee may reject a waiver request when the request is filed with Kewaunee County Clerk within 90 days of denial by the committee of a prior identical waiver request of the requester, absent a change in circumstances.

32.08 Penalties. Any person found guilty of violating this section shall be penalized by a forfeiture not less than \$300.00 and not to exceed \$1,000. Each day a sexually violent person maintains a residence in violation of this section constitutes a separate violation. Kewaunee County may also seek equitable relief.

32.09 Severability. Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected.